

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No.1002 of 2004

Sadashiv N Kulkarni and ors ..Petitioners

VS

Smt Rajani G Shirgopikar & anr. Respondents

Mr G.S.Godbole for petitioners

Mr. V.G.Peshwe for respondent nos.1 and 2

CORAM: A.P.SHAH J.

Dated 15.9.2005

P.C:

. Heard Mr.Godbole, learned counsel appearing for the petitioner and Mr Peshwe for respondent nos.1 and 2. Perused the judgments of the courts below. This is a petition by the landlord. The landlord has filed the present suit claiming possession on two grounds i.e. the tenant is guilty of causing of nuisance and annoyance to the neighbouring occupiers and secondly that the landlord bonafide requires the suit premises for personal occupation. Both the grounds were rejected by the lower courts and the suit came to be dismissed. The ground of nuisance and annoyance is not pressed before me.

2. As far as the ground of bonafide requirement for personal occupation of the suit premises is

concerned, the case of the landlord is that his son Sachin is B.E in Mechanical Engineer and is in the employment of Kirloskar Pvt Ltd. He got married in 1997 and is blessed with a son. Sachin has no separate premises and he is constrained to live alongwith his brother and therefore the suit premises are required for occupation of Sachin's family.

3. The lower courts found that the landlord got vacant possession of the premises of 1000 sq ft after the filing of the suit, however, he let out the said premises to one Indrayani Biotech. The explanation given by the landlord that he is financially hardpressed and needed extra income and therefore he let out the said premises was not accepted by the courts below. It is seen from the record that the landlord is a practising advocate having 25 years standing and owns 30 acres of irrigated land . He is also having number of residential and commercial premises. Under the circumstances the courts below were right in holding that the landlord's requirement is not bonafide.

4. The issue of comparative hardship has been decided in favour of the tenant. The respondent

no.1 is a widow and respondent no. 2 is her daughter. Respondent no. 2 is a spinster and teaching in a college. She has stated in her deposition that she has inspected about 50 premises but all of them were out of her reach.

. In the circumstances, in my opinion no case is made out for interference under Art 227 of the Constitution. Petition is dismissed.